

Message Text

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C O N F I D E N T I A L BUENOS AIRES 1092

E.O. 11652: GDS
TAGS: EINV, AR
SUBJECT: INVESTMENT DISPUTE: DELTEC CASE

REF: (A) STATE 12357, (B) BUENOS AIRES 479

1. SUMMARY. DELTEC REPRESENTATIVES WOLFGANG TRABER AND ENRIQUE HOLMBERG CALLED ON ME FEBRUARY 8 TO REPORT ON THE STATUS OF THE DELTEC CASE. THEY EXPRESSED DISAPPOINTMENT AT THE RATE AT WHICH THE GOA WAS PROCEEDING TO SETTLE THE DELTEC CASE -- A DELAY WHICH WAS PROVING VERY COSTLY TO DELTEC. THE TWO MAIN OBJECTIVES FOR RESOLUTION OF THE CASE ARE: (A) A REVERSAL OF THE LOWER COURT DECISION ON DELTEC ARGENTINA; AND (B) AN EXEMPTION FROM INDEXATION FOR DEBT OWED BY SWIFT TO THE GOA. POSSIBLE DETERIORATION IN US-ARGENTINA RELATIONS AS A RESULT OF HUMAN RIGHTS SITUATION IN ARGENTINA COULD MAKE SETTLEMENT OF DELTEC CASE MORE DIFFICULT.

2. HOLMBERG EXPRESSED DISAPPOINTMENT AT THE RATE THE GOA WAS PROCEEDING IN SETTLING THE DELTEC CASE. HE SAID THAT AFTER THE GOA ASSUMED POWER IN MARCH, 1976, ALL INDICATIONS WERE THAT THE CASE WOULD BE RESOLEVED FAVORABLY BY THE END OF THE YEAR. NOW, IT DOES NOT LOOK LIKE THERE WILL BE ANY SETTLEMENT BEFORE JULY 1977, AND PROBABLY NOT UNTIL SEPTEMBER OR

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OCTOBER. HE AFFIRMED THAT THE GOA, INCLUDING MARTINEZ DE HOZ, HAS NOT BEEN DOING ENOUGH TO SPEED UP THE PROCESS, TAKING THE POSITION THAT THE MATTER IS NOW IN THE HANDS OF THE ARGENTINE COURTS AND THAT THE EXECUTIVE BRANCH CANNOT APPROPRIATELY INTERVENE. HOLMBERG REFUSED TO ACCEPT THIS POSITION, NOTING THAT THE PERONIST GOVERNMENT HAD INTERVENED DIRECTLY IN THE JUDICIAL PROCESS AND FORCED AN UNFAVORABLE

DECISION IN THE DELTEC CASE. WHILE HOLMBERG EXPRESSED CONFIDENCE THAT THE CURRENT JUDICIAL SYSTEM WOULD VINDICATE DELTEC ULTIMATELY, HE STRESSED THAT DELTEC IS BEING PREJUDICED BY THE DELAY

3. HOLMBERG STATED THAT REVERSAL OF 1973 COURT DECISION LINKING DELTEC ARGENTINA, THE HOLDING COMPANY, TO THE BANKRUPTCY OF SWIFT IS THE MOST IMPORTANT ISSE AT HAND. WITHOUT A REVERSAL OF THIS DECISION, DELTEC ANNOT SELL THE ESPERANZA SUGAR MILL AND OTHER RANCHING INTERESTS. HOLMBERG EXPECTED THE SUPREME COURT TO REACH A DECISION ON DELTEC ARGENTINA BY APRIL AND EXPRESSED THE HOPE THAT THE COURT WOULD REVERSE ITS BANKRUPTCY, USING EH PRECEDNET ESTABLISHED IN THE RECENT SUPREME COURT RULING ON THE ESPERANZA CASE.

4. AS FOR SWIFT, HOLMBERG SAID SOME OF THE COMPANY'S PROPERTY AND PACKING PLANTS IN SOUTHER ARGENTINA HAD BEEN SOLD OFF FOR AROUND \$300,000. THE MAIN PACKING PLANTS, HOWEVER, WOULD NOT BE PUT UP FOR BIDS UNTIL MAY. HOLMBERG NOTED THAT IT WAS A PARTICULARLY BAD TIME FOR THE SALE OF THE PACKING PLANTS BECAUSE OF THE CURRENT PRICE SQUEEZE BEING EXPERIENCED BY THE MEAT PACKING INDUSTRY. HE ADDED THAT AN ADDITIONAL SERIOUS PROBLEM IN THE SWIFT CASE WAS THE INDEXATION OF THE DEBT OWED TO THE GOVERNMENT. EVEN THOUGH IT MIGHT PROVE AN IRRITANT TO THE GOA, HOLMBERG STATED THAT SWIFT HAD INITIATED JUDICIAL PROCEEDINGS AGAINST THE GOA TO TRY TO OBTAIN AN EXEMPTION FOR SWIFT FROM THE INDEXATION LAW WHICH WAS RECENTLY PASSED.

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5. HOLMBERG STATED THAT GOVERNOR CONNALLY WOULD BE CALLING SECRETARY VANCE TO BRIEF HIM ON DELTEC CASE.

6. I TOLD HOLMBERG AND TRABER THAT I HAD RAISED THE DELTEC CASE WITH MARTINEZ DE HOZ ON JANUARY 26, WHILE EXPRESSING APPRECIATION FOR HIS ASSISTANCE IN RESOLVING ALL THE OTHER MAJOR DISPUTES WITH U.S. FIRMS, I NOTED THE DELAY IN REACHING A FAIR SETTLEMENT IN THE DELTEC CASE. MARTINEZ DE HOZ ADMITTED THAT SETTLEMENT OF THE DELTEC CASE WAS PROCEEDING MORE SLOWLY THAN HAD BEEN ANTICIPATED, BUT WAS NONCOMMITTAL.

7. I ALSO TOLD THE DELTEC REPS THAT THE CURRENT HUMAN RIGHTS SITUATION IN ARGENTINA COULD LEAD TO A DETERIORATION IN US-ARGENTINE RELATIONS -- A RESULT WHICH WOULD DEFINITELY MAKE THE SETTLEMENT OF THE DELTEC CASE MORE DIFFICULT. I ADVISED HOLMBERG TO TRY TO SEE MARTINEZ DE HOZ HIMSELF (HOLMBERG CLAIMED HE KNEW THE MINISTER WELL) TO IMPRESS UPON HIM THE NEED FOR THE GOA TO SPEED UP THE JUDICIAL PROCESS IN THE DELTEC CASE.

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